

COMMITTEE ON GOVERNMENT

SENATE AMENDMENTS TO S.B. 1019

(Reference to printed bill)

Page 1, between lines 1 and 2, insert:

“Section 1. Section 33-1243, Arizona Revised Statutes, is amended to read:

33-1243. Board of directors and officers; conflict; powers; limitations; removal; annual audit; applicability

A. Except as provided in the declaration, the bylaws, subsection B or other provisions of this chapter, the board of directors may act in all instances on behalf of the association.

B. The board of directors shall not act on behalf of the association to amend the declaration, terminate the condominium, elect members of the board of directors or determine the qualifications, powers and duties or terms of office of board of directors members. The board of directors may fill vacancies in its membership for the unexpired portion of any term.

C. If any contract, decision or other action for compensation taken by or on behalf of the board of directors would benefit any member of the board of directors or any person who is a parent, grandparent, spouse, child or sibling of a member of the board of directors or a parent or spouse of any of those persons, that member of the board of directors shall declare a conflict of interest for that issue. The member shall declare the conflict in an open meeting of the board before the board discusses or takes action on that issue and that member may then vote on that issue. Any contract entered into in violation of this subsection is void and unenforceable.

D. Except as provided in the declaration, within thirty days after adoption of any proposed budget for the condominium, the board of directors shall provide a summary of the budget to all the unit owners. Unless the board of directors is expressly authorized in the declaration to adopt and amend budgets from time to time, any budget or amendment shall be ratified by the unit owners in accordance with the procedures set forth in this subsection. If ratification is required, the board of directors shall set a

1 date for a meeting of the unit owners to consider ratification of the budget
2 not fewer than fourteen nor more than thirty days after mailing of the
3 summary. Unless at that meeting a majority of all the unit owners or any
4 larger vote specified in the declaration rejects the budget, the budget is
5 ratified, whether or not a quorum is present. If the proposed budget is
6 rejected, the periodic budget last ratified by the unit owners shall be
7 continued until such time as the unit owners ratify a subsequent budget
8 proposed by the board of directors.

9 E. The declaration may provide for a period of declarant control of
10 the association, during which period a declarant or persons designated by the
11 declarant may appoint and remove the officers and members of the board of
12 directors. Regardless of the period provided in the declaration, a period of
13 declarant control terminates no later than the earlier of:

14 1. Ninety days after conveyance of seventy-five per cent of the units
15 which may be created to unit owners other than a declarant.

16 2. Four years after all declarants have ceased to offer units for sale
17 in the ordinary course of business.

18 F. A declarant may voluntarily surrender the right to appoint and
19 remove officers and members of the board of directors before termination of
20 the period prescribed in subsection E, but in that event the declarant may
21 require, for the duration of the period of declarant control, that specified
22 actions of the association or board of directors, as described in a recorded
23 instrument executed by the declarant, be approved by the declarant before
24 they become effective.

25 G. Not later than the termination of any period of declarant control
26 the unit owners shall elect a board of directors of at least three members,
27 at least a majority of whom must be unit owners. The board of directors
28 shall elect the officers. The board members and officers shall take office
29 upon election.

30 H. Notwithstanding any provision of the declaration or bylaws to the
31 contrary, the unit owners, by a majority vote of members entitled to vote and
32 voting on the matter at a meeting of the members called pursuant to this

1 section at which a quorum is present, may remove any member of the board of
2 directors with or without cause, other than a member appointed by the
3 declarant. For purposes of calling for removal of a member of the board of
4 directors, other than a member appointed by the declarant, the following
5 apply:

6 1. In an association with one thousand or fewer members, on receipt of
7 a petition that calls for removal of a member of the board of directors and
8 that is signed by the number of persons who are entitled to cast at least
9 twenty-five per cent of the votes in the association or one hundred votes in
10 the association, whichever is less, the board shall call and provide written
11 notice of a special meeting of the association as prescribed by section
12 33-1248, subsection B.

13 2. Notwithstanding section 33-1248, subsection B, in an association
14 with more than one thousand members, on receipt of a petition that calls for
15 removal of a member of the board of directors and that is signed by the
16 number of persons who are entitled to cast at least ten per cent of the votes
17 in the association or one thousand votes in the association, whichever is
18 less, the board shall call and provide written notice of a special meeting of
19 the association. The board shall provide written notice of a special meeting
20 as prescribed by section 33-1248, subsection B.

21 3. The special meeting shall be called, noticed and held within thirty
22 days after receipt of the petition.

23 4. For purposes of a special meeting called pursuant to this
24 subsection, a quorum is present if the number of owners to whom at least
25 twenty per cent of the votes or one thousand votes, whichever is less, are
26 allocated is present at the meeting in person or as otherwise permitted by
27 law.

28 5. If a civil action is filed regarding the removal of a board member,
29 the prevailing party in the civil action shall be awarded its reasonable
30 attorney fees and costs.

31 6. The board of directors shall retain all documents and other records
32 relating to the proposed removal of the member of the board of directors for

1 at least one year after the date of the special meeting and shall permit
2 members to inspect those documents and records pursuant to section 33-1258.

3 7. A petition that calls for the removal of the same member of the
4 board of directors shall not be submitted more than once during each term of
5 office for that member.

6 8. A MEMBER WHO IS DELINQUENT IN PAYMENT OF MONETARY PENALTIES SHALL
7 NOT BE BARRED FROM SIGNING A PETITION THAT CALLS FOR REMOVAL OF A BOARD
8 MEMBER.

9 I. For an association in which board members are elected from
10 separately designated voting districts, a member of the board of directors,
11 other than a member appointed by the declarant, may be removed only by a vote
12 of the members from that voting district, and only the members from that
13 voting district are eligible to vote on the matter or be counted for purposes
14 of determining a quorum.

15 J. Unless any provision in the condominium documents requires an
16 annual audit by a certified public accountant, the board of directors shall
17 provide for an annual financial audit, review or compilation of the
18 association. The audit, review or compilation shall be completed no later
19 than one hundred eighty days after the end of the association's fiscal year
20 and shall be made available upon request to the unit owners within thirty
21 days after its completion.

22 K. This section does not apply to timeshare plans or associations, or
23 the period of declarant control under timeshare instruments, that are subject
24 to chapter 20 of this title."

25 Renumber to conform

26 Page 1, line 13, after "speak" insert "ONCE"; strike "AND" insert "BUT"

27 Line 37, strike "ONLY ON REQUEST OF A UNIT OWNER,"

28 Line 38, after "ASSOCIATION" insert "EXCEPT ON REQUEST OF AN AFFECTED UNIT
29 OWNER"

30 Page 2, strike lines 28, 29 and 30

31 Line 31, strike "AND FUTURE DISCUSSION." insert:

1 “D. NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER
2 CONDOMINIUM DOCUMENTS, FOR MEETINGS OF THE BOARD OF DIRECTORS THAT ARE HELD
3 AFTER THE TERMINATION OF DECLARANT CONTROL OF THE ASSOCIATION, ALL OF THE
4 FOLLOWING APPLY:

5 1.”

6 Page 2, line 32, after “DIRECTORS” insert a period strike remainder of line

7 Strike line 33

8 Line 34, strike “E.” insert “2.”

9 Line 35, strike “OF A QUORUM”

10 Line 38, strike “A PUBLIC”; strike “POSTED” insert “GIVEN”

11 Strike lines 39 through 43, insert “BOARD OF DIRECTORS SHALL DISCLOSE AT AN OPEN
12 MEETING A DECISION TO BECOME A PARTY TO A LAWSUIT. NOTHING IN THIS SECTION
13 SHALL APPLY TO AN ACTION FILED PURSUANT TO TITLE 12, CHAPTER 8, ARTICLE 14.”

14 Page 3, line 1, strike “F.” insert “3.”

15 Line 3, after the period strike remainder of line

16 Strike line 4

17 Line 5, strike “BEEN HELD. THE NOTICE AND”

18 Lines 6 and 7, strike “AND WHAT MATTERS WERE DISCUSSED, CONSIDERED OR DECIDED”

19 Strike lines 10 through 16

20 Line 17, strike “H.” insert “4.”

21 Line 18, strike “NOTICE” insert “STATEMENT”

22 Line 19, after “BE” strike remainder of line

23 Line 20, strike “CONSENT TO THE ACTION TAKEN. THE NOTICE SHALL DECLARE”

24 insert “PREPARED STATING”

25 Line 22, strike “NOTICE” insert “STATEMENT”

26 Strike lines 29 through 38

27 Line 39, strike “K.” insert “5.”; strike “UNIT OWNERS,” insert “ASSOCIATION
28 OR”

29 Line 40, strike “OR COMMITTEES OF THE ASSOCIATION”

30 Line 42, after “IS” insert “NOTIFICATION OF THE PARTICIPANTS AND”

31 Line 43, strike “L.” insert “6. OTHER THAN ACTIONS ALLOWED BY SUBSECTION D,
32 PARAGRAPH 4 OF THIS SECTION,”

1 Page 4, line 1, strike "M." insert "7."

2 Line 5, strike "N." insert "8."; after "INFORMALLY" insert "TO DISCUSS
3 ASSOCIATION BUSINESS, INCLUDING WORKSHOPS,"

4 Line 8, strike "O." insert "E."

5 Line 20, after "speak" insert "ONCE"; strike "AND" insert "BUT"

6 Line 44, strike "ONLY ON REQUEST OF A MEMBER,"

7 Line 45, after "ASSOCIATION" insert "EXCEPT ON REQUEST OF AN AFFECTED UNIT
8 OWNER"

9 Page 5, strike lines 33, 34 and 35

10 Line 36, strike "AND FUTURE DISCUSSION." insert:

11 "D. NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER
12 COMMUNITY DOCUMENTS, FOR MEETINGS OF THE BOARD OF DIRECTORS THAT ARE HELD
13 AFTER THE TERMINATION OF DECLARANT CONTROL OF THE ASSOCIATION, ALL OF THE
14 FOLLOWING APPLY:

15 1."

16 Line 37, after "DIRECTORS" insert a period strike remainder of line

17 Strike line 38

18 Line 39, strike "E." insert "2."

19 Line 40, strike "OF A QUORUM"

20 Line 43, strike "A PUBLIC"; strike "POSTED" insert "GIVEN"

21 Strike lines 44 and 45

22 Page 6, strike lines 1, 2 and 3, insert "BOARD OF DIRECTORS SHALL DISCLOSE AT AN
23 OPEN MEETING A DECISION TO BECOME A PARTY TO A LAWSUIT. NOTHING IN THIS
24 SECTION SHALL APPLY TO AN ACTION FILED PURSUANT TO TITLE 12, CHAPTER 8,
25 ARTICLE 14."

26 Line 4, strike "F." insert "3."

27 Line 6, after the period strike remainder of line

28 Strike line 7

29 Line 8, strike "BEEN HELD. THE NOTICE AND"

30 Lines 9 and 10, strike "AND WHAT MATTERS WERE DISCUSSED, CONSIDERED OR DECIDED"

31 Strike lines 13 through 19

32 Line 20, strike "H." insert "4."

1 Page 6, line 21, strike "NOTICE" insert "STATEMENT"
2 Line 22, after "BE" strike remainder of line
3 Line 23, strike "CONSENT TO THE ACTION TAKEN. THE NOTICE SHALL DECLARE" insert
4 "PREPARED STATING"
5 Line 25, strike "NOTICE" insert "STATEMENT"
6 Strike lines 32 through 41
7 Line 42, strike "K." insert "5."; strike "MEMBERS," insert "ASSOCIATION OR"
8 Line 43, strike "OR COMMITTEES OF THE ASSOCIATION"
9 Line 45, after "IS" insert "NOTIFICATION OF THE PARTICIPANTS AND"
10 Page 7, line 1, strike "L." insert "6. OTHER THAN ACTIONS ALLOWED BY SUBSECTION D,
11 PARAGRAPH 4 OF THIS SECTION,"
12 Line 3, strike "M." insert "7."
13 Line 7, strike "N." insert "8."; after "INFORMALLY" insert "TO DISCUSS
14 ASSOCIATION BUSINESS, INCLUDING WORKSHOPS,"
15 Between lines 9 and 10, insert:
16 "Sec. 4. Section 33-1813, Arizona Revised Statutes, is amended to
17 read:
18 33-1813. Removal of board member; special meeting
19 A. Notwithstanding any provision of the declaration or bylaws to the
20 contrary, the members, by a majority vote of members entitled to vote and
21 voting on the matter at a meeting of the members called pursuant to this
22 section at which a quorum is present, may remove any member of the board of
23 directors with or without cause, other than a member appointed by the
24 declarant. For purposes of calling for removal of a member of the board of
25 directors, other than a member appointed by the declarant, the following
26 apply:
27 1. In an association with one thousand or fewer members, on receipt of
28 a petition that calls for removal of a member of the board of directors and
29 that is signed by the number of persons who are entitled to cast at least
30 twenty-five per cent of the votes in the association or one hundred votes in
31 the association, whichever is less, the board shall call and provide written

1 notice of a special meeting of the association as prescribed by section
2 33-1804, subsection B.

3 2. Notwithstanding section 33-1804, subsection B, in an association
4 with more than one thousand members, on receipt of a petition that calls for
5 removal of a member of the board of directors and that is signed by the
6 number of persons who are entitled to cast at least ten per cent of the votes
7 in the association or one thousand votes in the association, whichever is
8 less, the board shall call and provide written notice of a special meeting of
9 the association. The board shall provide written notice of a special meeting
10 as prescribed by section 33-1804, subsection B.

11 3. The special meeting shall be called, noticed and held within thirty
12 days after receipt of the petition.

13 4. For purposes of a special meeting called pursuant to this
14 subsection, a quorum is present if the number of owners to whom at least
15 twenty per cent of the votes or one thousand votes, whichever is less, are
16 allocated is present at the meeting in person or as otherwise permitted by
17 law.

18 5. If a civil action is filed regarding the removal of a board member,
19 the prevailing party in the civil action shall be awarded its reasonable
20 attorney fees and costs.

21 6. The board of directors shall retain all documents and other records
22 relating to the proposed removal of the member of the board of directors for
23 at least one year after the date of the special meeting and shall permit
24 members to inspect those documents and records pursuant to section 33-1805.

25 7. A petition that calls for the removal of the same member of the
26 board of directors shall not be submitted more than once during each term of
27 office for that member.

28 8. A MEMBER WHO IS DELINQUENT IN PAYMENT OF MONETARY PENALTIES SHALL
29 NOT BE BARRED FROM SIGNING A PETITION THAT CALLS FOR REMOVAL OF A BOARD
30 MEMBER.

31 B. For an association in which board members are elected from
32 separately designated voting districts, a member of the board of directors,

1 other than a member appointed by the declarant, may be removed only by a vote
2 of the members from that voting district, and only the members from that
3 voting district are eligible to vote on the matter or be counted for purposes
4 of determining a quorum.”

5 Renumber to conform

6 Page 7, line 13, after “members” insert “or”; strike “or”

7 Line 14, strike “meetings of committees”

8 Line 19, after the period strike remainder of line

9 Line 20, strike “still under control of the developer.”

10 Amend title to conform

2/26/08

10:25 AM

S: slp